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United States Attorney General

AMNESTY.--POWER OF THE PRESIDENT.

March 9, 1892.

***330** The President has the constitutional power, without Congressional authority, to issue a general pardon or amnesty to classes of foreigners.

The question of the President's pardoning power reviewed and the authorities collated. Various proclamations of general amnesty appended.

The PRESIDENT.

SIR:

A petition has been presented to you, praying you to issue a pardon or amnesty to all persons residing in Utah Territory, who have been guilty of polygamy, unlawful ***331** cohabitation or adultery as denounced by the acts of March 22, 1882 (22 Stat., 30), and March 3, 1887 (24 Stat., 635). You have asked the opinion of the Attorney-General upon the question whether you have the constitutional power, without Congressional authority, to issue such a general pardon or amnesty. Upon this question the following is respectfully submitted:

Section 2 of Article II of the Constitution, in defining the powers of the President, provides that 'he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.'

It has been decided by the Supreme Court that the power herein conferred upon the President is unlimited (ex parte Garland, 4 Wall., 333). The pardon may be granted before or after conviction, and absolutely or upon conditions. The ground for the exercise of the power is wholly within the discretion of the Executive. He may, therefore, if he thinks fit, pardon an offender because his offense is one of many like offenses, arising from a widespread, popular feeling and without regard to the character or the particular circumstances of the individual. He may, for the same reason, grant, by separate acts of pardon, immunity from punishment to each of a thousand such offenders. If he may do so, it is difficult to see why he does not exercise the same power, when by public proclamation he extends a pardon to ten thousand offenders, without naming them, but describing them as persons committing, or participating in, the same kind of offenses.

It is said that the power to grant pardons is a power to examine the circumstances of each case and then confer immunity on the offender. If the right to pardon were dependent on the existence of any particular grounds in the case of each offender, the argument, it seems to me, would be of more force. There is, however, no such restriction on its exercise. The ground may be as properly one which has equally and the same application to ten thousand or a hundred thousand cases, as one which is peculiar to the case under

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consideration. If so, does not the contention in favor of the narrower view become an argument in favor of a formality rather than a substantial and logical distinction? No one will deny that the President, without Congressional *332 authority, may issue separate pardons to every individual of the thousands of Mormons who have lived in polygamy in Utah. Only those would have to be omitted whose position is so obscure, or humble, that the President can not learn their names. Does not the power of amnesty, therefore, depend only on the question whether pardons can be made sufficiently definite in respect to the beneficiaries by a description other than by name? If the grantor is certain, the extent of the grant is certain, and the grantees are so described that they can be made certain, what is the inherent difference between the power involved in the grant of an individual pardon, and that in an amnesty to a class of persons to each one of whom the power to grant separate pardon, for a reason applicable to all, is conceded?

It is suggested that offenders can not be pardoned as a class any more than they can be tried and convicted as a class. This argument is not of force unless there is an analogy between a sentence of conviction and a pardon. The sentence is a judgment supported by a verdict rendered by a jury, on lawful evidence and full hearing, with the issue of the accused's guilt or innocence clearly defined. A pardon is a gracious act of mercy resting on any ground which the Executive may regard as sufficient to call for its exercise.

There is no hearing of evidence; there is no issue made. The recital in the act of pardon may show a ground which in law and logic would be wholly irrelevant to the guilt or character of the offender, and not in the slightest degree affect the validity of the pardon. State policy may require the Executive to grant it. Such considerations show the absence of any parallel between the trial of an offender and the exercise of Executive clemency in his case, and wholly destroys an analogy which would require the same procedure in both.

But it is urged against this view that it intrusts too great a power to the Executive. In what way? It only enables him to do that in one act which he might do by a thousand. The power which the Executive exercises is still the pardoning power, and that the Constitution gives him. It is no argument against its exercise that it may be abused. That is true of every power intrusted to the Executive.

On principle, it seems to me, therefore, the unlimited *333 power to grant pardons for all offenses against the United States, except in cases of impeachment, includes power to issue a general pardon or amnesty to any class of offenders.

Practice and authority confirm this view. Alexander Hamilton, in the seventy-third number of the Federalist, referring to this clause of the Constitution, said:

'But the principal argument for reposing the power of pardoning in this case in the Chief Magistrate is this: In seasons of insurrection or rebellion there are often critical moments when a well-timed offer of pardon to the insurgents or rebels may restore the tranquility of the commonwealth and which, if suffered to pass unimproved, it may never be possible afterwards to recall. The dilatory process of convening the Legislature or one of its branches, for the purpose of obtaining its sanction to the measure, would frequently be the occasion of

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letting slip the golden opportunity.'

Such language leaves no doubt that in the mind of this, one of the greatest of the framers and expounders of the Constitution, the pardoning power included the authority to offer and grant pardon and amnesty to a whole body of insurgents or rebels, i. e., to a class of offenders. This language was quoted and used by Mr. Justice Story in his work on the Constitution. (Sec. 1500 et seq.)

The practice, contemporaneous with the adoption of the Constitution, supports the existence of the power of the President to grant amnesty without legislative sanction. In 1794 President Washington issued a proclamation extending pardon to the whisky insurrectionists, and Gen. Lee, as Commander-in-Chief of the United States forces, issued a similar proclamation in the name of the President, and by his authority. Copies of these proclamations are appended. Governor Mifflin, of Pennsylvania, acting under a constitutional authority conferred in the same words as that of the President, issued a similar proclamation of pardon (also appended) to the insurgents for their offenses against the State of Pennsylvania. President Adams issued a proclamation of pardon to the same insurgents in 1800, a copy of which is appended. President Madison granted pardon by proclamation to a class of offenders known as the 'Barataria' pirates, who were a large band of men engaged in smuggling *334 and violations of the revenue and navigation laws of the United States. I have appended a copy of this proclamation. By the thirteenth section of the act of July 17, 1862 (12 Stat., 592), the President was authorized, at any time thereafter, by proclamation, to extend to persons participating in the then existing rebellion pardon and amnesty, with such exceptions and conditions as he should deem expedient. On December 8, 1863 (12 Stat., 737), President Lincoln issued a proclamation offering pardon and amnesty to the rebels. The recitals of this proclamation show that he did not admit that he had not the power to issue such a proclamation, without Congressional authority, but that he distinctly asserted the contrary. The two recitals on this subject are as follows: 'Whereas, in and by the Constitution of the United States, it is provided that the President shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment and * * *

'Whereas * * * laws have been enacted by Congress * * * declaring that the President was thereby authorized at any time thereafter, by proclamation, to extend to persons who may have participated in the existing rebellion in any State or part thereof, pardon and amnesty, with such exceptions, and at such times and on such conditions as he may deem expedient for the public welfare, and whereas the Congressional declarations for limited and conditional pardon accords with well-established judicial exposition of the pardoning power,' etc.

President Johnson issued several limited pardon proclamations of this character, and then in January, 1867 (14 Stat., 377), Congress repealed the amnesty section of the act of 1862. Thereafter, on September 7, 1867 (15 Stat., 699), he issued another limited and conditional pardon proclamation. On July 4, 1868 (15 Stat., 702), he issued a full and absolute pardon by proclamation to all rebels, except those who were under an indictment for treason, and by a proclamation of December 25, 1868 (15 Stat., 711), he extended full, absolute, and unconditional pardon to all who had taken part in the rebellion. President Johnson on July 3, 1866, issued a proclamation extending pardon to all deserters

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who should return to their colors. A copy of this order is appended. Again, on October 10, 1873, President Grant *335 issued a proclamation pardoning all deserters who should return to the Army, which is also in the appendix.

We thus see that the contemporaneous exposition of the Constitution and the contemporaneous practice under it by the early Presidents, continued down to the period after the war, support the view that the power to grant pardons includes the power to grant pardons to a class by proclamations describing the class by the offense committed. The practice has been fully sustained by the Supreme Court of the United States.

In ex parte William Wells (18 How., 307) the question was whether the Constitution gave the President the power to commute a sentence of death to imprisonment for life. This is held to be a conditional pardon and within the power of the Executive. Referring to the significance of the word 'pardon,' Justice Wayne says, on page 310:

'In the law it has different meanings, which were as well understood when the Constitution was made as any other legal word in the Constitution now is. Such a thing as a pardon without a designation of its kind is not known in the law. Time out of mind, in the earliest books of the English law, every pardon has its particular denomination. They are general, special, or particular, conditional or absolute, not necessary in some cases, and in some grantable, of course.'

And, again, referring to the power under the Constitution, the same justice says:

'The real language of the Constitution is general, that is, common to the class of pardons, or extending the power to pardon to all kinds of pardons known to the law as such, whatever may be their denomination.'

The necessary effect of this language would seem to be that the power to pardon given the President includes the authority to issue general pardons.

In ex parte Garland (4 Wall., 333) the question was whether a statute which excluded from practice in the courts attorneys who had participated in the rebellion would operate to exclude one who had received full pardon for his offenses before trial. It was held that it could not. Mr. Justice Field delivered the opinion of the court and said, referring to the pardon clause of the Constitution:

'The power thus conferred is unlimited, with the exception *336 stated--i. e., in cases of impeachment. It extends to every offense known to the law, and may be exercised at any time after its commission, either before legal proceedings are taken or during their pendency, or after conviction or judgment. This power of the President is not subject to legislative control; Congress can neither limit the effect of his pardon nor exclude from its exercise any class of offenders. The benign prerogative of mercy reposed in him can not be fettered by any legislative restrictions.'

In United States v. Padelford (9 Wall., 531) the effect of President Lincoln's proclamation of December 8, 1863, was under consideration, with respect to which the court say:

'This proclamation, if it needed legislative sanction, was fully warranted by the act of July 17, 1862, which authorized the President at any time thereafter to extend pardon and amnesty to persons who had participated in the rebellion, with such exceptions as he might see fit to make. That the President had power,

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if not otherwise, yet with the sanction of Congress, to grant a general conditional pardon has not been seriously questioned. And this pardon, by its terms, included restoration of all rights of property, except as to slaves and as against the intervening rights of third persons.'

Here is an intimation that in the mind of the court there was good ground for the contention that no legislative sanction was needed for the issuance by the Executive of a general conditional pardon.

In the case of the United States v. Klein (13 Wall., 128) the Chief Justice referred to the amnesty clause of the act of July 17, 1862, as follows:

'The suggestion of pardon by Congress, for such it was, rather than authority, remained unacted on for more than a year.'

Again, after referring to the proclamation of general conditional pardon issued while the amnesty clause of the act of July 17, 1862, was in force, the Chief Justice described the three proclamations issued by President Johnson after its repeal, the last one of which, as we have seen, conferred full pardon, unconditionally, on all participating in the rebellion, and then said:

'It is true that the section of the act of Congress which purported to authorize the proclamation of pardon and *337 amnesty by the President was repealed on January 21, 1867; but this was after the close of the war, when the act had ceased to be important as an expression of the legislative disposition to carry into effect the clemency of the Executive, and after the decision of this court that the President's power of pardon 'is not subject to legislation;' that Congress can neither limit the effect of his pardon nor exclude from its exercise any class of offenders.'

Again, on page 147:

'It is the intention of the Constitution that each of the great coordinate departments of the Government--the legislative, executive and the judicial--shall be, in its sphere, independent of the others. To the Executive alone is intrusted the power of pardon, and it is granted without limit. Pardon includes amnesty. It blots out the offense pardoned, and removes all its penal consequences.'

It is perfectly clear from these extracts that in the opinion of the court the proclamation of absolute pardon, December 25, 1868, was entirely within the constitutional power of the President, though it may be admitted that it was not necessary to the conclusion in the Klein case, that it should be so decided.

In the case of Armstrong v. The United States (13 Wall., 154), however, the rights of the claimant against the United States rested solely on the proclamation of December 25, 1868, and the absolute and unconditional pardon thereby conferred and those rights were sustained.

Said the Chief Justice:

'The proclamation of the 25th of December granted pardon unconditionally and without reservation. This was a public act of which all courts of the United States are bound to take notice and to which all courts are bound to give effect. The claim of the petitioner was preferred within two years. The Court of Claims, therefore, erred in not giving the petitioner the benefit of the proclamation.'

This is an express holding that the proclamation of absolute and general pardon and amnesty is within the power of the President without legislative

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authority or sanction. This ruling has been followed in *Pargoud v. The United States* (13 Wall., 156); *Carlisle v. The United States* (16 Wall., 147); *Knote v. The United States* (95 U. S., 149).

*338 The only authority which can be cited against this view is the report of the Judiciary Committee of the Senate on the right of the President to issue the proclamation of December 25, 1868. This will be found in the bound volume of Senate Reports of the Fortieth Congress, third session, No. 239. They reported for adoption by the Senate the following resolution:

'Resolved, That in the opinion of the Senate the proclamation of the President of the United States of the 25th of December, 1868, purporting to grant general pardon and amnesty to all persons guilty of treason and acts of hostility to the United States during the late rebellion, with restoration of rights, etc., was not authorized by the Constitution or laws.'

And accompanied their recommendation with an argument in support thereof. Arguments on the subject by Senator Ferry and Senator Conkling will be found in Congressional Globe, third session Fortieth Congress, Part I., pp. 168, 438. I can not find that the resolution which was reported February 17, 1869 (Cong. Globe, 3d session 40th Cong., 1381), was ever adopted by the Senate. As the validity of the proclamation here condemned has been since four times sustained by the Supreme Court, the committee report can not now be considered an authority of weight.

A very full discussion of the power of the President to grant a general pardon or amnesty to a class of offenders will be found in the American Cyclopaedia, 1873, under the head of 'Amnesty.' There will be found a reference to the prerogative of the English Crown in granting pardons and an explanation of the statutes of amnesty passed by Parliament which clearly shows that the power existing in the Crown included power to issue general pardons. I have already taken too much space, and I forbear to discuss this aspect of the subject.

The same view has been taken in some of the State courts where acts of general amnesty passed by the State legislatures have been held invalid on the ground that such acts are an invasion of the pardoning power, which is exclusively vested in the Executive, by language in the State constitution similar to that of the Federal Constitution. See *State v. Sloss* (25 Mo., 291); *The State v. Fleming* (7 Humphreys, *339 Tenn, 152); *Haley v. Clark* (26 Ala., 439); see also *People v. Moore*, (62 Mich., 496).

It is submitted that reason, practice, and authority established the constitutional power of the Executive, without legislative sanction, to issue proclamations extending pardon or amnesty to classes of offenders.

There are appended copies of the proclamations of general pardon and amnesty to which reference has been made in the foregoing opinion, for the reason that they are not found in the regular publications of the Statutes at Large, and some of them are not recorded in the State Department.

Very respectfully,

WM. H. TAFT,
Solicitor-General.

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I concur in this opinion.

W. H. H. MILLER.

PROCLAMATION GRANTING PARDON TO THE WESTERN INSURGENTS.

[Sparks' Life of Washington, vol. 12, p. 134, 135.]

Whereas the commissioners, appointed by the President of the United States to confer with the citizens in the western counties of Pennsylvania, during the late insurrection which prevailed therein, by their act and agreement, bearing date the 2d day of September last, in pursuance of the powers in them vested, did promise and engage, that, if assurances of submission to the laws of the United States should be bona fide given by the citizens resident in the fourth survey of Pennsylvania, in the manner and within the time in the said act and agreement specified, a general pardon should be granted, on the 10th day of July then next ensuing, of all treasons and other indictable offences against the United States, committed within the said survey before the 22d day of August last, excluding therefrom, nevertheless, every person who should refuse or neglect to subscribe such assurance and engagement in manner aforesaid, or who should after such subscription violate the same, or wilfully obstruct, or attempt to obstruct, the execution of the acts for raising a revenue on distilled spirits and stills, or be aiding or abetting therein;

And whereas, I have since thought proper to extend the said pardon to all persons guilty of the said treasons, misprisions of treason, or otherwise concerned in the late insurrection within the survey aforesaid, who have not since been indicted or convicted thereof, or of any other offense against the United States;

***340** Therefore be it known, that I, George Washington, President of the United States, have granted, and by these presents do grant, a full, free, and entire pardon to all persons (excepting as is hereinafter excepted, of all treasons, misprisions of treason, and other indictable offenses against the United States, committed within the fourth survey of Pennsylvania before the 22nd day of August last past, excepting and excluding therefrom, nevertheless, every person who refused or neglected to give and subscribe the said assurances in the manner aforesaid (or having subscribed, hath violated the same), and now standeth indicted or convicted of any treason, misprision of treason, or other offense against the said United States; hereby remitting and releasing unto all persons, except as before excepted, all penalties incurred, or supposed to be incurred, for, or on account of, the premises.

In testimony whereof I have hereunto set my hand, and caused the seal of the United States to be affixed, this tenth day of July, in the year of our Lord one thousand seven hundred and ninety-five, and the twentieth year of the independence of the said United States.

GEORGE WASHINGTON.

GENERAL LEE'S PROCLAMATION OF PARDON.

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[Pennsylvania Archives, Vol. IV, pp. 479-80].

By Henry Lee, Governor of the Commonwealth of Virginia, Major-General therein, and Commander in Chief of the Militia Army, in the service of the United States.

A Proclamation.

By virtue of the powers and authority in me vested by the President of the United States, and in obedience to his benign intentions therewith communicated, I do, by this, my proclamation, declare and make known to all concerned, that a full, free, and entire pardon (excepting and providing as hereafter mentioned) is hereby granted to all persons residing within the counties of Washington, Allegheny, Westmoreland, and Fayette, in the State of Pennsylvania, and in the county of Ohio, in the State of Virginia, guilty of treason, misprision of treason against the United States, or otherwise directly or indirectly engaged in the wicked and unhappy tumults and disturbances lately existing in those counties, excepting, nevertheless, from the benefit and effect of this pardon, all persons charged with the commission of offenses against the United States, and now actually in custody or held by recognizance to appear and answer for such offenses at any judicial court or courts, excepting also, all persons avoiding fair trial by abandonment of their homes; and excepting, moreover, the following persons, the atrocity of whose conduct renders it proper to mark them by name for the purpose of subjecting them, with all possible certainty, to the regular course of judicial proceedings, and whom all officers, civil and military, are required to endeavor to apprehend and brought to justice, to-wit: Benjamin Parkinson, Arthur Gardner, John Holcraft, Daniel Hamilton, Tho. Lapsley, William Miller, Edward Cook, Edward Wright, Richard *341 Holcraft, David Bradford, John Mitchell, Alexander Fulton, Thomas Spiers, William Bradford, Geo. Parker, Wm. Hanna, Edward Magner, Jr., Thos. Hughes, David Lock, Ebenezer Gallagher, Peter Lyle, John Shields, William Hay, William McElhenny, Tho. Patten, Stephenson Jack, Patrick Jack, and Andrew Highlands, in the State of Pennsylvania; and William Sutherland, Robert Stephenson, William McKinley, John Moore, and John McCormick, of Ohio county, in the State of Virginia.

Provided, That no person who shall hereafter willfully obstruct or attempt to obstruct the execution of any of the laws of the United States, or be in any wise aiding or abetting therein, shall be entitled to any benefit or advantage of the pardon hereinafter granted: And provided also, That nothing herein contained shall extend, or be construed to extend, to the remission or mitigation of any forfeiture of any penalty incurred by reason of infractions of, or obstructions to, the laws of the United States for collecting a revenue upon distilled spirits and stills.

Given under my hand, at headquarters, in Elizabeth Town, this twenty-ninth day of November, seventeen hundred and ninety-four.

HENRY LEE.

By order of the commander in chief.

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G. K. TAYLOR, Aid-de-Camp.

GOVERNOR MIFFLIN'S PROCLAMATION OF PARDON

[Pennsylvania Archives, Vol. IV, pp. 536-39.]

WEDNESDAY, August 26, 1795.

The President of the United States having by his proclamation, dated the ___ day of August, instant, thought proper to extend the pardon of the Government of the United States to all persons who have been guilty of the treasons or misprisions of treason in his said proclamation mentioned, or who have been otherwise concerned in the late insurrection within the four western counties of this State, who have not since been indicted or convicted thereof, the Governor this day took the same into consideration, and being desirous on his part to pursue a like policy, as well on account of its humanity as for the sake of preserving uniformity in the proceedings of the General and State Governments in relation to the same important object, accordingly issued his proclamation in the words following, to wit:

Pennsylvania, ss:

In the name and by the authority of the Commonwealth of Pennsylvania, by Thomas Mifflin, Governor of the said Commonwealth:

A Proclamation.

Whereas at the commencement of the late insurrection in the western part of this State, constituting the fourth survey thereof, I deemed it expedient to attempt a vindication of the violated authority of the laws and the restoration of peace, harmony, and order by the influence of reason and lenity upon the minds of the deluded and refractory insurgents;

***342** And whereas the better to promote so desirable an object I appointed, authorized, and employed the Hon. Thomas McKean, Chief Justice of this Commonwealth, and Maj. Gen. William Irvine (with full confidence in their wisdom, prudence, and patriotism), as commissioners, to confer with the said insurgents, and on behalf of the Government of Pennsylvania to promise to them and every of them an act of pardon and oblivion for all past transgressions upon receiving a satisfactory assurance of a future submission to the laws;

And whereas the said commissioners in pursuance of the trust thus reposed in them did, by an instrument under their hands bearing date the twenty-fourth day of August, in the year one thousand seven hundred and ninety-four, promise upon certain terms and conditions of submission to the laws of this State and of the United States, to be made in the manner and within the time in the said instrument specified, that if the people of the said western counties should keep peace and be of good behavior until the first day of June, now last past, an act of free and general pardon and oblivion of all treasons, insurrections, arson, riots, and other offenses inferior to riots, committed, perpetrated,

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counseled, or suffered by any person or persons complying with the terms and conditions aforesaid, within the counties by the said commissioners specified, since the fourteenth day of July, in the year one thousand seven hundred and ninety-four, should be granted so far as the said offenses concerned the State of Pennsylvania or the government thereof.

And whereas it appears by a proclamation heretofore issued by the President of the United States that he has thought proper to extend the pardon of the Government of the United States to all persons who have been guilty of treasons or misprisions of treason in his said proclamation specified, or have been otherwise concerned in the said insurrection within the said survey, but who have not since been indicted or convicted thereof, and I am desirous, on my part, to pursue a like policy, as well on account of its humanity as for the sake of preserving uniformity in the proceedings of the General and State Governments, in relation to the same important object: Therefore, I, Thomas Mifflin, governor of the Commonwealth of Pennsylvania, have granted and by these presents do grant a full, free, and entire pardon to all persons (not included in the exception hereinafter declared) of all treasons, insurrections, arsons, riots, and other offenses inferior to riots, committed within the said fourth survey, between the said fourteenth day of July and the twenty-second day of August, in the year one thousand seven hundred and ninety-four, and which may have been and are indictable offenses against the said State of Pennsylvania, together with a free and entire remission and release of all fines, forfeitures, and penalties consequent thereon, excepting and excluding always, nevertheless, from all the benefit and advantage or any claim to the benefit and advantage of the pardon hereby granted every person who has either refused to give the assurance of submission stipulated and required as aforesaid, or who, having given the same, shall afterwards have deviated therefrom, and now actually stands indicted or convicted of any offense against the State of Pennsylvania.

*343 Given under my hand and the great seal of the State, at Philadelphia, the twenty-sixth day of August, in the year of our Lord one thousand seven hundred and ninety-five and of the Commonwealth the twentieth.

THOMAS MIFFLIN.

By the Governor.

A. J. DALLAS,

Secretary of the Commonwealth.

PROCLAMATION GRANTING PARDON TO THE PENNSYLVANIA INSURGENTS, MAY 21, 1800.

[From the Life and Works of John Adams, Vol. IX, pp. 178, 179.]

Whereas the late wicked and treasonable insurrection against the just authority of the United States of sundry persons in the counties of Northampton, Montgomery, and Bucks, in the State of Pennsylvania, in the year 1799, having been speedily suppressed, without any of the calamities usually attending

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rebellion, whereupon peace, order, and submission to the laws of the United States were restored in the aforesaid counties, and the ignorant, misguided, and misinformed in the counties have returned to a proper sense of their duty, whereby it is become unnecessary for the public good that any future prosecutions should be commenced or carried on against any person or persons by reason of their being connected in the said insurrection:

Wherefore be it known that I, John Adams, President of the United States of America, have granted, and by these presents do grant, a full, free, and absolute pardon to all and every person or persons concerned in the said insurrection, excepting as hereinafter excepted, of all treasons, misprisions of treason, felonies, misdemeanors, and other crimes by them respectively done or committed against the United States in either of the said counties before the twelfth day of March, in the year one thousand seven hundred and ninety-nine, excepting and excluding therefrom every person who now standeth indicted or convicted of any treason, misprision of treason, or other offense against the United States, whereby remedying and releasing unto all persons, except as before excepted, all pains and penalties incurred or supposed to be incurred for or on account of the premises.

Given, etc.

JOHN ADAMS.

[From the Archives of the State Department.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Among the many evils produced by the wars, which, with little intermission, have afflicted Europe, and extended their ravages into other quarters of the globe, for a period exceeding twenty years, the dispersion of a considerable portion of the inhabitants of different counties, in sorrow and in want, has not been the least injurious to human happiness, nor the least severe in the trial of human virtue.

It had been long ascertained that many foreigners flying from the *344 dangers of their own home, and that some citizens forgetful of their duty, had cooperated in forming an establishment on the Island of Barrataria, near the mouth of the river Mississippi, for the purposes of a clandestine and lawless trade.

The Government of the United States caused the establishment to be broken up and destroyed; and having obtained the means of designating the offenders of every description, it only remained to answer the demands of justice by inflicting an exemplary punishment.

But it has since been represented that the offenders have manifested a sincere penitence; that they have abandoned the prosecution of the worse cause for the support of the best, and particularly that they have exhibited in the defense of New Orleans unequivocal traits of courage and fidelity. Offenders who

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have refused to become associates of the enemy in the war upon the most seducing terms of invitation, and who have aided to repel his hostile invasion of the territory of the United States, can no longer be considered as objects of punishment, but as objects of a generous forgiveness.

It has therefore been seen with great satisfaction that the general assembly of the State of Louisiana earnestly recommend those offenders to the benefit of a full pardon; and in compliance with that recommendation, as well as in consideration of all the other extraordinary circumstances of the case, I, James Madison, President of the United States of America, do issue this proclamation, hereby granting, publishing, and declaring a free and full pardon of all offenses committed in violation of any act or acts of the Congress of the said United States touching the revenue, trade, and navigation thereof, or touching the intercourse and commerce of the United States with foreign nations, at any time before the eighth day of January, in the present year one thousand eight hundred and fifteen, by any person or persons whomsoever, being inhabitants of New Orleans and the adjacent country, or being inhabitants of the said Island of Barataria and the places adjacent: Provided that every person claiming the benefit of this full pardon, in order to entitle himself thereto, shall produce a certificate in writing from the governor of the State of Louisiana stating that such person has aided in the defense of New Orleans and the adjacent country during the invasion thereof as aforesaid.

And I do hereby further authorize and direct all suits, indictments, and prosecutions for fines, penalties, and forfeitures against any person or persons who shall be entitled to the benefit of this full pardon forthwith to be stayed, discontinued, and released. And all civil officers are hereby required, according to the duties of their respective stations, to carry this proclamation into immediate and faithful execution.

Done at the city of Washington the sixth day of February, in the year one thousand eight hundred and fifteen, and of the Independence of the United States the thirty-ninth.

(Signed) JAMES MADISON.

By the President:

(Signed) JAMES MONROE,

Acting as Secretary of State.

*345 General Orders, No. 43.]

WAR DEPARTMENT,

ADJUTANT--GENERAL'S OFFICE,

Washington, July 3, 1866.

OFFER OF PARDON TO DESERTERS FROM THE REGULAR ARMY WHO SURRENDER.

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20 U.S. Op. Atty. Gen. 330
(Cite as: 20 U.S. Op. Atty. Gen. 330, *345)

By direction of the President, all deserters from the regular Army who voluntarily join their regiments or surrender themselves at any military post or recruiting rendezvous before the 15th of August, 1866, will be returned to duty without trial or punishment, on condition that they make good the time lost by desertion, and forfeit all pay and allowance for the time of their absence.

Such deserters as, under this order, surrender themselves at any other place than the stations of their regiment will be subject to assignment to other regiments, as if they were unattached recruits.

By order of the Secretary of War:

E. D. TOWNSEND,

Assistant Adjutant-General.

Official:

ASSISTANT ADJUTANT-GENERAL.

General Orders, No. 102.]

WAR DEPARTMENT,

ADJUTANT-GENERAL'S OFFICE,

Washington, October 10, 1873.

The President of the United States commands it to be made known that all soldiers who have deserted their colors, and who shall, on or before the 1st day of January, 1874, surrender themselves at any military station, shall receive a full pardon, only forfeiting the pay and allowances due them at the time of desertion; and shall be restored to duty without trial or punishment on condition that they faithfully serve through the term of their enlistment.

By order of the Secretary of War.

E. D. TOWNSEND,

Adjutant-General.

Official.

ASSISTANT ADJUTANT-GENERAL.

20 U.S. Op. Atty. Gen. 330, 1892 WL 269 (U.S.A.G.)

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